IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NOS: 26859 AND 3034 of 2003

AND CC NO. 580 OF 2004

Between:

1 K.Venkat Narayana, S/o.Sathaiah,
R/o.Narsampet, Warangal District.
2 K.Buchi Ramulu, S/o.Narsaiah,
R/o.Narsampet, Warangal District.
3 A.Ramchandru, S/o.Mallaiah,
R/o.Narsampet, Warangal District.
4 M.Ramaswamy, S/o.Kanakaiah,
R/o.Narsampet, Warangal District.
5 Mohd.Imam, S/o.Khasim,
R/o.Narsampet, Warangal District.
6 K.Raju, S/o.Narsaiah,
R/o.Narsampet, Warangal District.
7 M.Srinivas, S/o.Sivaiah,
R/o.Narsampet, Warangal District.

..... PETITIONERS

AND

1 The Superintending Engineer, IB Circle (I&CAD), Hanamkonda, Warangal District.
2 The Executive Engineer, IB Division (I&CAD), Mahabubabad, Warangal District.
3 The Deputy Executive Engineer, IB Sub-Division (I&CAD), Narsampet, Warangal District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or Direction, particularly one in the nature of Writ of Mandamus, declaring that the order of termination passed by the 2nd respondent in proceedings No.ES/EC4/40, dated 19-12-2003, served on 22-12-2003, terminating

services of petitioners with effect from 21-12-2003 as illegal, unjust, contrary to law, in violation of mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947 and in violation of Rule 79 of the A.P.Industrial Dispute Rules 1958, arbitrary, discriminatory and violative of Articles 14, 16 and 21 of the Constitution of India, and grant all consequential benefits.

Counsel for the Petitioner:MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondent : GP FOR IRRIGATION & COMM AREA DEV. FOR R1 TO 3

WRIT PETITION NO : 3034 of 2004

Between:

J.Chandra Mouli, S/o Ramchandraiah,
R/o H.No.5-2-123, New Kothoor, Hanamkonda, Warangal District.

..... PETITIONER

AND

1 The Superintending Engineer, I & CADD, Irrigation Circle, Warangal, Warangal District.
2 The Executive Engineer, I & CADD, Irrigation Division, Mahabubabad, Warangal District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to for the reasons set-out in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to call for the records from the respondents and issue an appropriate Writ, Order or Direction, particularly one in the nature of Writ of Mandamus, declaring that the orders passed by the 2nd respondent in proceedings No.ES/ECU/2734-40/04, dated 22-1-2004 to retrench the petitioner with effect from 21-2-2004 as illegal, unjust, contrary to law, in violation of principles of natural justice, in violation of Section 25-N, 25-F and 25-G of the Industrial Disputes Act, 1947 and Rule 79 of the A.P. Industrial Disputes Rules and also in violation of Article 14,16 and 21 of the Constitution of India, and grant all consequential benefits

Counsel for the Petitioner:MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondent No.: GP FOR IRRIGATION & COMM AREA DEV.

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CONTEMPT CASE NO : 580 of 2004

(Contempt Case U/s. 10 to 12 of Contempt of Courts Act to punish the Respondents herein for violating, disobeying the Order of the High Court dated 24.12.2003 in WPMP No.34015 of 2003in WP No. 26859 of 2003.

Between:

1 K. Venkatnarayana, S/o Sathaiah,
R/o Naarsampet, Warangal Dist.
2 K. Buchiramulu, S/o Narsaiah,
R/o Naarsampet, Warangal Dist.
3 A. Ramchandru, S/o Mallaiah,
R/o Naarsampet, Warangal Dist.
4 M. Ramaswamy, S/o Kanakaiah,
R/o Naarsampet, Warangal Dist.
5 Md. Imam Khasi, 36
R/o Naarsampet, Warangal Dist.
6 K. Raju, S/o Narsaiah,
R/o Naarsampet, Warangal Dist.
7 M. Srinivas , S/o Sivaiah,
R/o Naarsampet, Warangal Dist.

..... PETITIONERS

AND

Sri Md. Rahman BaiG, Executive Engineer,
I B Division (I & CAD) Mahabubabad,
Warangal Dist.

.....RESPONDENT

Counsel for the Petitioner:MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondent : GP FOR IRRIGATION & COMM AREA DEV. FOR R

The Court made the following :

ORDER:

Heard Sri A.K. Jayaprakash Rao, learned counsel appearing for the petitioner and also the learned Government Pleader appearing on behalf of the respondents and at their request the main Writ Petitions as well as the Contempt Case are taken up for disposal.

The case of the petitioners in brief is that they have been appointed as Lascars with the respondents herein, as long back as on 1.3.1987. Thereafter, in view of the termination-dated 15.9.1997, petitioners raised a dispute under Section 2-A of the Industrial Disputes Act, and the same was referred to as I.D.Nos. 66 of 1998 and I.D.Nos 74 of 1998 to 79 of 1988 and ultimately, the labour court passed a

common award on 10.5.2001 setting aside the oral order of termination and directed the respondents to reinstate the petitioners into service with continuity of service but without back wages. In pursuance of the Award, petitioners were reinstated by an order-dated 25.8.2003 and they have been continued in service. However, once again respondents have taken recourse of passing fresh orders of notice of termination-dated 22.11.2003 with effect from 19.12.2003. The said orders have been challenged in these two writ petitions inter alia, on various grounds, especially, that there is a clear violation of Section 25-F of the Industrial Disputes Act, 1947 and Rule 79 of the A.P. Industrial Disputes Rules, 1958, therefore, the impugned order has to be set aside.

This court has granted interim directions as per the orders passed in WPMP No. 34015 dated 24.12.2003 to continue the petitioners in service as Lascars on the same terms and conditions and they are being continued.

Now the respondents have filed a counter affidavit along with an application to vacate the interim orders contending that having regard to the fact that the work has already been completed and the services of the petitioners are not required and therefore, they have been issued termination notice dated 22.11.2003, therefore, petitioners cannot have any right to claim employment especially when there is no work. In the mean while, the petitioners also filed Contempt Case No. 580 of 2004.

Having considered the submissions made and also on perusal of the material on record, the only question which calls for consideration is as to whether the impugned action on the part of the respondents is in violation of Section 25-F of the Act and also Rule 79 of the Industrial Disputes Rules and the petitioners are entitled to be continued in service.

There is no dispute with regard to the facts that the petitioners were appointed with the respondents as long back as on 1.3.1987. Thereafter, termination was effected and ultimately the labour court reinstated the petitioners with continuity of service but without back wages. It was not the case of the respondents at that time that the employment of the petitioners is in respect of particular work. However, respondents have taken the recourse to issue termination orders on 22.11.2003 with effect from 19.12.2003 on the ground that the work has already been completed and therefore, there is no requirement. Admittedly, in this case, the respondents have not followed the procedure as contemplated under Section 25-F of the Act and Rule 79

of the Rules. Therefore, the impugned order has to be set-aside in the teeth of the mandate as contemplated under the aforesaid Rules. Consequently, the entire impugned action has become void.

Having regard to the same, it has to be held that the petitioners are entitled to remain in service and the impugned order is set aside.

Accordingly, the Writ Petitions are allowed. Having regard to the orders passed in the main Writ Petitions itself, it is not necessary to go into the merits of the Contempt Case, since the petitioners are continued in service, the Contempt Case is closed. It shall be open for the respondents herein to follow the procedure as contemplated under law and take any exigency of work.

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B. PRAKASH RAO,J

DATED: 06.12.2004.

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Monday, The Sixth Day of December Two Thousand and Four.

To

1 The Superintending Engineer, IB Circle (I&CAD), Hanamkonda, Warangal District.
2 The Executive Engineer, IB Division (I&CAD), Mahabubabad, Warangal District.
3 The Deputy Executive Engineer, IB Sub-Division (I&CAD), Narsampet, Warangal District.

4. The Superintending Engineer, I & CADD, Irrigation Circle, Warangal, Warangal District.
5. The Executive Engineer, I & CADD, Irrigation Division, Mahabubabad, Warangal District.

6. Sri Md. Rahman Baid,
I B Division (I & CAD) Mahabubnagar,
Warangal Dist.

7. Sri Md. Rahman BaiG, Executive Engineer,
I B Division (I & CAD) Mahabubabad,
Warangal Dist.

8. 2CCs to G.P. for Irrigation and Command Area Development, High Court of A.P Buildings, Hyderabad. (out)

9. 2 CD copies.